

Community resources

[Follow us on Twitter](#) [Check our Reddit](#) [Twitter this](#) [Digg this page](#) [Contact us on IRC](#)

courage is contagious

Viewing cable 09NAIROBI1938, VISAS DONKEY: CORRUPTION 212(F) VISA DENIAL

If you are new to these pages, please read an introduction on the [structure of a cable](#) as well as how to [discuss them](#) with others. See also the [FAQs](#)

Understanding cables

Every cable message consists of three parts:

- The top box shows each cables unique reference number, when and by whom it originally was sent, and what its initial classification was.
- The middle box contains the header information that is associated with the cable. It includes information about the receiver(s) as well as a general subject.
- The bottom box presents the body of the cable. The opening can contain a more specific subject, references to other cables ([browse by origin](#) to find them) or additional comment. This is followed by the main contents of the cable: a summary, a collection of specific topics and a comment section.

To understand the justification used for the classification of each cable, please use this [WikiSource](#) article as reference.

Discussing cables

If you find meaningful or important information in a cable, please link directly to its unique reference number. Linking to a specific paragraph in the body of a cable is also possible by copying the appropriate link (to be found at the paragraph symbol). Please mark messages for social networking services like Twitter with the hash tags **#cablegate** and a hash containing the reference ID e.g. **#09NAIROBI1938**.

Reference ID	Created	Released	Classification	Origin
09NAIROBI1938	2009-09-16 09:24	2011-08-30 01:44	SECRET	Embassy Nairobi

Appears in these articles:

<http://www.spiegel.de/>

VZCZCXYZ0002
OO RUEHWEB

DE RUEHNR #1938/01 2590924
ZNY SSSSS ZZH
O 160924Z SEP 09
FM AMEMBASSY NAIROBI
TO RUEHC/SECSTATE WASHDC IMMEDIATE 0989
INFO RUEHLO/AMEMBASSY LONDON PRIORITY 3327
RHEHNSC/NSC WASHDC PRIORITY

<<225330>>
9/16/2009 9:24
09NAIROBI1938
Embassy Nairobi
SECRET
08STATE81854 | 09NAIROBI1830 | 09NAIROBI1831 | 09NAIROBI1859
VZCZCXYZ0002
OO RUEHWEB

DE RUEHNR #1938/01 2590924
ZNY SSSSS ZZH
O 160924Z SEP 09
FM AMEMBASSY NAIROBI
TO RUEHC/SECSTATE WASHDC IMMEDIATE 0989
INFO RUEHLO/AMEMBASSY LONDON PRIORITY 3327
RHEHNSC/NSC WASHDC PRIORITY

TAGS: [CVIS](#) [ECON](#) [KCRM](#) [KE](#) [PGOV](#) [PREL](#) [KCOR](#)
SUBJECT: VISAS DONKEY: CORRUPTION 212(F) VISA DENIAL
REF: A. 08 STATE 81854

S e c r e t nairobi 001938

Sensitive
sipdis

Dept for af a/s carson, inl/c/cp jane becker, nsc for
senior director gavin

E.o. 12958: decl: 09/09/2019
Tags: cvis, econ, kcrm, ke, pgov, prel, kcor
Subject: visas donkey: corruption 212(f) visa denial

Ref: a. 08 state 81854
b. Td-314/014437-09
c. Nairobi 1830
d. Nairobi 1859
e. Nairobi 1831

Classified By: AMBASSADOR MICHAEL RANNEBERGER. FOR REASONS 1.5(B) AND (d).

11. (C) Embassy is seeking a security advisory opinion under Section 212(f) of the Immigration and Nationality Act, Proclamation 7750, suspending the entry into the United States of Aaron Gitonga Ringera and members of his family. Ringera was born in Meru, Kenya on June 20, 1950. Post strongly believes Mr. Ringera has engaged in and benefited from public corruption in his capacity as Director/Chief Executive of the Kenya Anti-Corruption Commission (KACC) for the last five years by interference with judicial and other public processes, and that this corruption has had a serious adverse impact on U.S. national interest in the stability of democratic institutions in Kenya, U.S. foreign assistance goals and the international economic activities of U.S. businesses. Ringera travels frequently to the U.S. He is expected shortly to apply for a U.S. visa. The following provides information requested in ref a, paragraphs 26-28.

12. (C) Justice (retired) Aaron Ringera has been Director/Chief Executive of the Kenya Anti-Corruption Commission since its inception in 2004. During this period, despite a string of major corruption scandals that have come to light before and after his appointment, he has not only failed to successfully investigate a single senior government official, he has actively thwarted their successful investigation and prosecution by teaming with Attorney General Amos Wako (ref b). Ringera is part of a system that has evolved over time involving the Attorney General and the judiciary that works together to avoid or suppress investigations/prosecutions of top GOK officials. Ringera provides cases via investigation to the Attorney General's office and insists that they're strong cases. The Attorney General fails to prosecute, arguing that the cases are poorly investigated and sends them back to Ringera. If any cases of significance leak through and go to court, the judiciary can be counted on to quash those that are the most sensitive at the direction of senior government officials. Ringera's key role was recently confirmed by the irregular manner in which he was reappointed on August 31 by President Kibaki to a second five-year term. The "process" involved in Kibaki's decision-making demonstrates that key players in the GOK hierarchy wanted to retain Ringera to avoid having to deal with a new and potentially effective KACC Director (ref d). Leading anti-corruption NGOs have repeatedly noted that "no politically significant corruption case has been successfully investigated by the KACC" under Ringera.

13. (S) Justice Ringera's corrupt practices have come out in a number of ways, most prominently in a recent book, "It's Our Turn to Eat," an account of the resignation of former Kenya anti-corruption czar John Githongo. Ringera's involvement with death threats, which Githongo asserts repeatedly in the book, is corroborated by ref b (described in para 7 below).

Leading anti-corruption NGOs have followed Ringera's work for years and firmly believe that his gross negligence is intentional, making him a ready accomplice. Ringera's own submission to President Kibaki in 2006 regarding the Anglo-Leasing scandal concluded that a number of senior officials should have been prosecuted. To date, none of them have. Finally, the 2006 Parliamentary Public Accounts Committee report on Anglo-Leasing makes a number of recommendations to the KACC, none of which have been carried out. The clear pattern of Justice Ringera's material negligence and his involvement in attempts to violently suppress information on corruption constitutes corruption in and of itself.

It's Our Turn to Eat

14. (C) "It's Our Turn to Eat" chronicles former Kenya anti-corruption czar John Githongo's rise and fall from power in Kenya in the early days of the post-Moi administration under then new President Mwai Kibaki. The book, by Financial Times reporter Michela Wrong, outlines in particular Githongo's investigation of the Anglo-Leasing scandal. Anglo-Leasing was one of a series of phantom entities used to perpetrate fraud on the Kenyan taxpayer through non-delivery of goods and services alongside significant overpricing. The beneficiaries include the most senior levels of the GOK. However, due in part to Ringera's complicity, not a single senior government official has been successfully prosecuted for the theft of hundreds of millions of U.S. dollars from Kenya. Justice Ringera has played his part in not pressing hard on this case and attempting to discourage Githongo from releasing information and investigating Anglo-Leasing further. The book is drawn primarily from interviews with John Githongo and Githongo's writings from his time as anti-corruption advisor to President Kibaki. Githongo's interactions with Ringera paint the picture of a man (Ringera) who is part of the system within the GOK that protects its own from prosecution regardless of the crime committed and will, if necessary, kill to enforce the system. On November 4, 2005, Githongo admitted to Ringera his realization that the GOK leadership (among them President Kibaki) really only wanted him there as window dressing to "go through the motions" in fighting corruption. Ringera agreed and said, "So you stay there, you are a little wiser and you know that you are there. You can't, in fact, afford to make any move. That's when you will really be killed." Ringera added, "If you wanted to resign and go today, that's when they would kill you." In February 2006, Githongo was speaking with Ringera in London one last time before Githongo resigned and went into exile. According to Githongo, Ringera told him that Kenyan intelligence "would put something in your tea" if Githongo went public with what he knew.

15. (C) Githongo's belief that Ringera was part of the corruption problem was largely based on the latter's unwillingness to be responsive to the dossier of information on Anglo-Leasing that Githongo had put together. Two instances led Githongo to this conclusion. At the end of 2005 when President Kibaki failed to respond to the dossier, he sent a copy to Ringera. Githongo said, "I'd told him, 'I'm ready to come and share incontrovertible proof with you, just ask me.'" There was no response from Ringera. At the same time, it was clear that Ringera was not independent of President Kibaki. According to the book's author, "The day we met he (Ringera) boasted that he had never taken a telephone call from the presidency during his time in office. But a former colleague says he never needed to, going round in person to State House to receive instructions. He would call staff together and say: the message from the president is A, B, C, and D." Ref d's tale of Ringera's sudden and back-door reappointment by President Kibaki on August 31, 2009 confirms that Ringera is part of the cabal keeping a lid on justice, ensuring senior GOK officials are never held accountable for their corrupt acts.

16. (C) More evidence of Ringera's involvement in protecting the corrupt elite came when Githongo testified to the KACC on Anglo-Leasing in March 2006 in London at the Kenyan High

Commission. According to the book, "Understandably wary, John had insisted his evidence be taped. Yet at the end of two days of testimony - long enough, one would have thought, for any malfunction to be detected and rectified -- Ringera informed John the recording equipment had failed and his words were, sadly, inaudible. There would be no audio transcript, only a KACC-drafted summary. After delivering that bombshell, Ringera waxed astonishingly candid about the charade being staged for public consumption. There would be no Anglo Leasing prosecutions until after the 2007 elections, if ever, he said. When John's lawyer asked when his client could return to Kenya to give evidence, Ringera said: "no, no, I wouldn't advise that." According to the book, "a former lead KACC investigator who had accompanied Ringera to London went public to confirm the details of the conversation. I was amazed at what Ringera said. There was no indication whatsoever the equipment wasn't working. You don't go for days without once going through what you have recorded." Once again, the head of Kenya's anti-corruption body was doing his best to halt an investigation.

Td-314/014437-09

17. (S) Paragraph 5 provides details of statements made by Ringera to Githongo that Githongo took as direct threats to his life by the Kenyan political elite, to include Ringera. This TD corroborates Githongo's conclusion about Ringera who is identified in a room with leading Kikuyu politicians, including Ministers of government, plotting to kill Githongo in 2009. The conclusion one can draw from this report, combined with Githongo's testimony, is that Ringera is part of those within the Kenyan political elite seeking to suppress information and those with information that could assist in punishing and minimizing corruption in Kenya.

Parliamentary Public Accounts Committee Report on Anglo-Leasing

18. (C) In March 2006, the Kenyan National Assembly's Public Accounts Committee (PAC) released its report on Anglo-Leasing. In its general recommendations, the PAC said the KACC Director "should liaise with the Attorney General, the Police Commissioner, and other relevant bodies with a view to prosecuting persons who were involved in negotiations and approval of the procurement of Passport Issuing Equipment" (one of the fraudulent Anglo-Leasing contracts). To date, after more than three years, the KACC, under Ringera's direction, has not carried out this action. The report further recommends that the "KACC should hasten its investigations and make its report public as soon as possible." In fact, KACC has done the opposite. Investigations have ceased and there is no public report. Per ref e, both the PAC report and Githongo have made clear the complicity of then Justice Minister Murungi in covering up Anglo-Leasing. Despite the evidence, Ringera has never followed through on the investigations into Murungi's role in the mega-scandal.

KACC Status Report to President Kibaki on Anglo-Leasing

19. (C) In June 2006, the KACC under Justice Ringera provided a brief report to President Kibaki regarding Anglo-Leasing entitled, "Status of the Investigation of Security Related Contracts." In that document, the KACC indicates that there is "a probability of prosecution" for four senior government officials, including former Vice President Moody Awori, former Minister of Finance David Mwiraria, former Minister for Internal Security Chris Murungaru, and current Attorney General Amos Wako. Not one of them has been successfully investigated and prosecuted on the Anglo-Leasing case. Two groups of businessmen are also specifically linked to fraudulent Anglo-Leasing contracts -- those linked to the Kamani family and those linked to Anura Perera. Neither of those principals or their families have been successfully investigated and prosecuted. Again, as is demonstrated also in paragraph 8, there is a pattern of behavior by Justice Ringera that makes it clear that he is part of the shell game, rather than trying to fight it. KACC reports indicate

that investigations are underway and prosecutions are "probable" and that there is evidence of corrupt acts yet the record, particularly for those at the top of government and business, are unsuccessfully investigated or prosecuted or there is no action over a number of years. This is particularly damning when the KACC is not following up on its own recommendations. As one NGO has noted (see below), it is currently rare for KACC reports to even mention Anglo-Leasing, one of the largest scams in recent Kenyan history, let alone investigate the case.

NGO Views of Ringera

¶10. (SBU) Ref d reports Ringera's reappointment by President Kibaki to a second five-year term as KACC Director. Key NGO reactions, aside from expressing opposition to the process of Ringera's reappointment, called into question his performance and how it warranted reappointment. xxxxxxxxxxxx said the following:

"Public service legitimacy depends on the faithfulness of public service to the aspirations of the citizens. The track record of KACC is testimony of betrayal of this principle. No politically significant corruption case has been successfully investigated by KACC. While the reasons for this dismal performance lies with the President, cabinet, judiciary, Attorney General's office and parliament, the buck stops with the head of the anti-corruption oversight institution. He should have recognized the structural and policy weaknesses that were going to lead to this failure and resigned. Or fought for fundamental reforms in a way that was both visible and credible. In democratic states, oversight institutions required application of "arms-length" principles in their leadership, functioning and resourcing. For a president to appoint the head of an institution that would take him/her to jail if s/he was corrupt is a travesty of democratic governance principles. KACC is the one institution, if any, whose head and staff should owe no loyalty to the executive they should be investigating."

¶11. (SBU) Mars Group Kenya, another anti-corruption NGO, reacted to Ringera's reappointment as follows: "Apart from the possible illegality of his new tenure, Kenyans will no doubt wonder why Justice Ringera merits reappointment in view of the abject failure of the KACC under his leadership to make a meaningful contribution towards ending grand corruption impunity in Kenya."

¶12. (C) There are two key points in these paragraphs. First, the KACC is the body that must lead on corruption. Ringera, who frequently attempts to shift the blame to the Attorney General (and, per ref c, he is certainly blameworthy), is, in fact, not taking up fully the duties that are allocated to him under Kenyan law. His successes have been of the "small fish" variety. While decrying the KACC's insignificant results (which his own staff has reported to us), Ringera does not act to resolve them or to protest by taking bold steps to expose those involved in holding up action against corruption or to resign given the ineffectual nature of his organization. The second point, regarding the reappointment makes it clear that Ringera is entirely beholden to President Kibaki and those around the President, many of whom are linked to various forms of public corruption over a long period of time. That lack of independence and clear connection to the political/corrupt elite inextricably links Ringera to the corruption that is dragging Kenya away from the fundamental reforms necessary to assure democratic stability and economic prosperity.

¶13. (C) In March 2007, Mars Group issued a review of the KACC's activities from 2005-2007. In the report, Mars focused in part on KACC's efforts on the largest corruption cases, such as Anglo-Leasing. Its conclusion, among others, is that "prominent personalities are more likely to benefit from a recommendation to the KACC to close their files than less prominent public officers." They noted that two key players linked directly to Anglo-Leasing and its cover up, former Finance Minister Mwariria and current Minister of Energy (ref e) Kiraitu Murungi, were such ministerial

beneficiaries of apparent KACC largesse.

Serious Effect on U.S. National Interests

¶14. (C) KACC Director Justice Aaron Ringera's five years of involvement in public corruption through interference with judicial and other public processes have had serious adverse effects on those U.S. interests specified in Proclamation 7750 as well as U.S. foreign policy priorities of promoting democracy and good governance and sustainable economic development. Overarching all U.S. interests in Kenya is the need for the GOK to implement the reform agenda agreed to by all major political parties in the aftermath of the 2008 post-election violence. This agenda -- which focuses on accountability for the violence and preventing corruption through constitutional revision, electoral, judicial, police and land reform, is essential to democratic success, economic prosperity, stability and security in Kenya. As made clear by Secretary Clinton during her August 2009 visit to Kenya, pressing for implementation of the reform agenda and dismantling Kenya's culture of impunity is at the core of U.S. policy. Without significant progress on the reform agenda, including significant curbs on corruption, Kenya will almost certainly repeat (or surpass) the election-related violence ahead of/during/after 2012 elections. By obstructing due process and committing corrupt acts, Ringera has demonstrated that he is an obstacle to reform in Kenya and a major contributor to the country's culture of impunity. As a result, he stands against vital U.S. interests in Kenya.

¶15. (C) Stability of Democratic Institutions and Nations: Justice Ringera's active participation in a system that protects senior officials from punishment for corrupt acts obstructs the fundamental reforms required for Kenya to ensure democratic stability. Not moving forward on scandals like Anglo-Leasing or Goldenberg (ref c) means that many of those suspected of stealing massively from the country's treasury have remained not only unpunished but on the job as Ministers of Government to this day. His protection has ensured that they continue to be in a position to steal funds to support election campaigns, and incite/support violence. For example, per ref e, after leaving the Ministry of Justice, Kiraitu Murungi went on to be Energy Minister where he once again has benefited from public corruption. In addition, per ref b and the credible reporting of John Githongo, there is strong evidence that Justice Ringera is involved in planning violence to suppress those who would expose corruption and seek to act to halt it. That kind of planning with involvement of elements of the Kenyan state is a direct assault on democracy and institutions in this country. At the same time, it is clear to all Kenyans that participating in public corruption, especially if you are among the political elite, does in fact pay. There is little, if any threat of punishment. In a September 2009 letter to Ambassador Ranneberger describing his achievements, Ringera argues that he has recommended prosecutions of Ministers, MP's and others on corruption charges. Yet none of them have been prosecuted. In the case of Anglo-Leasing, he asserts that he is held up by various court cases that have impeded prosecution. He and the Attorney General act in concert to decry these circumstances, some of which have been in place for years, but they do not act separately or in concert to seek changes to law or to key rulings to ensure that the cases move forward. After five years of working together, their collaboration rather appears to be an elaborate system of maintaining the appearance of activity while achieving the reality of inactivity. The corrosive nature of this culture of impunity has: directly undermined the ability of the Kenyan economy to grow at levels required to move the population to middle income status; built a permanent level of disregard for the rule of law and the institutions that are meant to enforce those laws; and reinforced a system whereby the government does not serve its population but further marginalizes it while enriching those in power. The bottom line is that the Kenyan state is weaker and less able to enhance the lives of its population and maintain the security of the country's already porous and dangerous border areas.

¶16. (C) U.S. Foreign Assistance Goals: According to Transparency International, the Goldenberg scandal alone directly cost the Kenyan taxpayer an estimated \$500 million. Anglo-Leasing as well damaged the Kenya government and people to the tune of hundreds of millions of dollars more. Under a KACC Director committed to protecting the Kenyan people, those most directly involved and benefiting from this scandal would have been aggressively investigated and prosecuted. That has not been the case. With economic prosperity and poverty alleviation at the heart of our foreign assistance goals, the ongoing damage done by: (a) not returning the funds stolen from the Kenyan people, and (b) encouraging continued public corruption by maintaining the culture of impunity limits our ability to provide assistance to the government, denies hundreds of millions of dollars to the public that could otherwise be utilized to assist in developing the country, and slows dramatically the construction of the infrastructure required to create the environment in which domestic and foreign investors could thrive.

¶17. (C) International Activity of U.S. Businesses: In his five years in office, Justice Ringera has helped to maintain the institutionalization of the culture of impunity that is rife in Kenya. Under Ringera's leadership, the KACC has actively participated in a system that works to discourage investigation, minimize the likelihood of prosecution, and throw out court cases that appear to have a chance of taking down senior GOK officials charged with corruption. Like the Attorney General, Justice Ringera can claim a perfect record of not investigating and convicting a single, senior GOK official. This is a remarkable tally in a country that is consistently ranked among the most corrupt in the world. That level of impunity only encourages greater and greater corruption throughout Kenya at all levels. The resulting corruption has a direct impact on U.S. business attempting to operate in Kenya from the police roadblocks set up along major transport routes, to moving goods to/from the Port of Mombasa, to fighting counterfeit products that are undermining American manufacturers based here, to simply being able to operate on a day-to-day basis with bribe-seeking local and regional officials. The KACC Director's corruption - protecting the most corrupt from accountability -- ensures that U.S. businesses struggle in Kenya.

In Summary

¶18. (S) Justice Aaron Ringera, is at the heart of Kenya's debilitating corruption problem. While it was anticipated that he would be part of the solution when he took office, he has, instead, become an important element in a system of protection for political elites. Post strongly believes that Mr. Ringera has engaged in and benefited from public corruption in his capacity as KACC Director for the past five years by interference in public and judicial processes. The record demonstrates that:

- the KACC Director is part of the group protecting itself from prosecution for the Anglo-Leasing scandal;
- he participated in at least one meeting in which the attempted assassination of John Githongo was planned this year;
- he was aware of threats to Kenyan anti-corruption official John Githongo and shared them with Githongo as an apparent intermediary;
- Ringera has not successfully investigated for prosecution a single case involving a senior GOK official in five years in a country that is consistently rated as among the most corrupt in the world;
- Ringera has not acted on recommendations from Parliament or followed through on his own recommendations for prosecution to the President of Kenya;
- Ringera has stopped pursuing Anglo-Leasing cases, one of Kenya's largest scandals for which no senior level investigations/prosecutions have been concluded;
- The backdoor manner in which Ringera was reappointed makes clear the premium value placed on him heading the KACC among

the political elite.

Additional Information Required for Finding

¶19. (C) Mr. Aaron Gitonga Ringera has not been informed of the fact that he may be ineligible for a U.S. visa under section 212(f) of the INA and Proclamation 7750.

¶20. (C) Mr. Ringera's last visa issuance was a G2 that expired on July 15, 2007. Mr. Ringera has travelled frequently to the United States. He is expected shortly to apply for a U.S. visa.

¶21. (C) Ringera has traveled to the United States five times since 1997, including three times in 2007. He has been issued J1, G2, and A1 visas. He currently carries a Kenyan diplomatic passport D009090 that expires January 19, 2010. Ringera xxxxxxxxxxxx. We have not established whether or not Ringera has children and, if so, who they are.

¶22. (C) Because of the serious effect of Mr. Aaron Ringera's corruption, Post recommends that Mr. Ringera be excluded for travel to the U.S. under section 212(f) of the INA and that no exception be granted.

Ranneberger